

## REMARKS

After entry of this amendment, claims 42-80 will be pending.

### Section 102

Applicant requests reconsideration of the rejection of claims 42, 43, 45, 46, 48-52, 55, 56, and 72-80 under 35 U.S.C. § 102(b) as being anticipated by US Patent 4,461,303 (Rofojo). Each of the claims recites, in part, apparatus comprising: an eye enclosure adapted to provide an enclosed area **simultaneously about (or around) both eyes** of the user **without obstructing vision through the enclosure**.

Rofojo discloses non-intrusive measurement of preocular tear film evaporation using goggles having an enclosure chamber sized for one eye, in contrast to the two eyes recited in applicant's claims. Further, the lens of the enclosure chamber in Rofojo has a graduated scale on its surface for the purpose of measuring the patient's palpebral aperture. This graduated scale would partially obstruct their vision through the enclosure. Thus, there are multiple elements recited in the claims that are absent from the cited reference. Accordingly, the Section 102 rejection is improper and should be withdrawn.

### Section 103

Applicant requests reconsideration of the rejection of claims 44, 47, 53, and 54 under 35 U.S.C. § 103(a) as being unpatentable over Rofojo. Each of the claims recites apparatus providing a dry environment around the eyes of the user comprising: an eye enclosure adapted to provide an enclosed area **simultaneously about both eyes** of the user **without obstructing vision through the enclosure**; means for retaining the eye enclosure in position; and means for supplying dry air to the eye enclosure.

As discussed above, Rofojo discloses non-intrusive measurement of preocular tear film evaporation using goggles having an enclosure chamber sized for one eye, in contrast to the two eyes recited in applicant's claims. Further, the lens of the enclosure chamber in Rofojo has a graduated scale on its surface for the purpose of measuring the patient's palpebral aperture. This graduated scale would prevent the patient from carrying out their normal activities because it would partially obstruct their vision through

the enclosure. Therefore, there are several differences between the cited reference and the claimed invention as explained above. The action fails to discuss any of these differences between the reference and the claim language. Accordingly, a *prima facie* case of obviousness has not been made.

The claims require an enclosure that simultaneously encloses both eyes and does so without obstructing vision through the enclosure. The design has been carefully chosen to create an environment of sufficient volume without impairing the subject's normal activities. During testing carried out in dry conditions, subjects are often required to carry out computer tasks to mimic video-display-induced dry eye symptoms. When the apparatus has higher than normal humidity (which is a possibility in the arrangements of some of the claims), such as when dry eye symptoms are being relieved, it is likely to be used by patients at their home or their place of work. In view of this, the apparatus must enable the patients to carry out normal activities. Thus, the patient will need optimal vision with a clear field of view and preferably be able to wear within the eye enclosure any optical correction means that the patient may mean. Therefore, the patient needs to be able to wear their glasses.

In Rofojo, the patient is required to close their eyes twice during measurements hence the patients are put in a situation during which they will not be able to carry out normal activities. Further, the shape of the goggle arrangement disclosed in Rofojo would not allow the patient to wear spectacles. It is also noted that the lens of the chamber in Rofojo has a graduated scale on its surface that partially obstructs vision through the enclosure as required by the claims.

There are several elements recited in the claims that are absent from the cited reference. Further, the reference does not suggest these elements. Accordingly, the Section 103 rejection is improper and should be withdrawn.

### Conclusion

Applicants wish to expedite prosecution of this application. If the Examiner deems the application to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the application in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,



David E. Crawford, Jr., Reg. No. 38,118  
SENNIGER POWERS LLP  
100 North Broadway, 17th Floor  
St. Louis, Missouri 63102  
314/345-7000